

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

RICHARD PEEPLES, RUTH  
NELSON-PEEPLES, US COASTAL  
PROPERTY AND CASUALTY INSURUANCE  
COMPANY, a/s/o Richard Peeples and Ruth  
Nelson-Peebles,

Plaintiffs,

v.

Case No. 3:20-cv-5-J-34JRK

OMEGA FLEX INC.,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on the Report and Recommendation (Doc. 30; Report), entered by the Honorable James R. Klindt, United States Magistrate Judge, on July 31, 2020. In the Report, Judge Klindt recommends that Counts III and IV of Plaintiffs' Complaint for Declaratory and Injunctive Relief, Costs, Damages, and Demand for Jury Trial (Doc. 3) be dismissed without prejudice for failure to state a claim under Rule 12(b)(6), Federal Rules of Civil Procedure (Rule(s)). See Report at 20. Plaintiffs have not filed objections to the Report, and the time for doing so has now passed.

The Court "may accept, reject, or modify, in whole or in part, the finding or recommendations by the magistrate judge." 28 U.S.C. § 636(b). If no specific objections to findings of facts are filed, the district court is not required to conduct a de novo review of those findings. See Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993); see also 28 U.S.C. § 636(b)(1). However, the district court must review legal conclusions de

novo. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at \*1 (M.D. Fla. May 14, 2007).

Upon independent review of the file and for the reasons stated in the Magistrate Judge's Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

**ORDERED:**

1. The Magistrate Judge's Report and Recommendation (Doc. 30) is **ADOPTED** as the opinion of the Court.
2. Defendant Omega Flex Inc.'s Rule 12 Motion to Dismiss Counts III, IV, and V of Plaintiffs' Complaint and Motion to Strike Plaintiffs' Demand for Attorneys' Fees (Doc. 7; Motion) is **GRANTED in part** and **DENIED in part**.
  - a. The Motion is **GRANTED** to the extent that Counts III and IV of Plaintiffs' Complaint for Declaratory and Injunctive Relief, Costs, Damages, and Demand for Jury Trial (Doc. 3) are **DISMISSED without prejudice** for failure to state a claim pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure.
  - b. The Motion is **DENIED** in all other respects.

**DONE AND ORDERED** in Jacksonville, Florida, this 21st day of August, 2020.

  
MARCIA MORALES HOWARD  
United States District Judge

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Copies to:  
Counsel of Record